

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS EARL DEMPSEY,

Defendant.

CR 16–28–M–DLC–1

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on November 1, 2016. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Thomas Earl Dempsey’s guilty plea after Dempsey appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of conspiracy to

commit robbery in violation of 18 U.S.C. § 1951(a) (Count I), one count of carjacking in violation of 18 U.S.C. § 2119 (Count III), one count of kidnapping in violation of 18 U.S.C. § 1201(1)(a) (Count IV), and one count of possession and discharge of a firearm in furtherance of a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(iii) (Count X), as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts II, V through IX, and XI of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 94), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Thomas Earl Dempsey's motion to change plea (Doc. 78) is GRANTED and Thomas Earl Dempsey is adjudged guilty as charged in Counts I, III, IV, and X of the Indictment.

DATED this 16<sup>th</sup> day of November, 2016.



Dana L. Christensen, Chief District Judge  
United States District Court